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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,697	06/05/2002	Michael P. Ryan	AWDH1-PCTUS	4628

7590 04/27/2004

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EXAMINER

KEENAN, JAMES W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,697

Applicant(s)

RYAN ET AL.

Examiner

James Keenan

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

1. In view of the appeal brief filed on 2/17/04, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9-26 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method of and means for producing front loader, side loader, and rear loader RCVs, does not reasonably provide enablement for a fleet of such vehicles. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. The specification states that the objects of the invention (as set forth on pages 4-5) are to provide various methods of and means for producing a variety of configurations of refuse collection vehicles. The specification

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does not provide for a fleet of such vehicles *per se*, nor does it even set forth of what such a fleet would consist.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what is meant by the term "fleet". As normally used, the term refers to a collection of objects owned, operated, or in the control of a single entity. However, the specification provides no evidence that fleet as used in the claims would have such a meaning. In fact, absent any evidence to the contrary, the scope of the claims would appear to encompass any two or more vehicles existing anywhere in the world that have the requisite structure.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 9, 10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanzig et al (US 6,183,185) in view of Schaffler (US 4,096,959), both of record.

Zanzig et al show a variety of refuse collection vehicles (a "fleet", as broadly claimed), including a front loader RCV comprising a body module 50 with tailgate 55 and hopper 57, as shown in figures 21-22, and a side loader RCV comprising a body module 50 with tailgate 55 and hopper 57, as shown in figures 1-2, wherein each body module is manufactured such that one end mates with a tailgate of the front and side loader RCVs, and the other end mates with a hopper of the front and side loader RCVs, inasmuch as the body modules are interchangeable on different types of vehicle chassis.

Zanzig et al do not show the tailgates and hoppers to be distinct modules.

Schaffler teaches a front loader RCV with separate body, hopper, and tailgate modules.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Zanzig et al by constructing the bodies, tailgates, and hoppers thereof as separate modules, as shown by Schaffler, as this is a well known type of vehicle construction in the refuse collection art, and would preclude the necessity of having to change the entire body, hopper, and tailgate as a unit.

Re claim 10, note that the body modules of Zanzig et al can be various lengths, as seen in figures 9-10.

Re claims 12-13, the front and side loaders of Zanzig et al are attached to the vehicle chassis.

8. Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanzig et al in view of Schaffler, as applied to claim 9 above, and further in view of Dempster et al (US 3,202,305), of record.

As noted above, the modified Zanzig et al apparatus shows the loaders to be mounted on the vehicle chassis rather than the hopper modules.

Dempster et al show in figure 2 a loader 22 attached to module 106 rather than chassis 6.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Zanzig et al by mounting the loaders on a module, specifically a hopper module, as suggested by Dempster et al, as this would simply be a well known and art recognized design expediency.

9. Claims 15, 16, 18, 19, 21-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanzig et al in view of Schaffler, as applied to claim 9 above, and further in view of Winter (US 4,986,716), of record.

Zanzig et al as modified does not suggest the combination of front and rear loading or side and rear loading RCVs.

Winter shows a rear loading RCV, wherein at least the tailgate is modular.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Zanzig et al by utilizing front/rear or side/rear loading RCVs instead of front/side loading RCVs, as this would simply be the substitution of a well known alternate equivalent type of RCV, the use of which in the

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apparatus of Zanzig et al would require no undue experimentation and produce no unexpected results.

Re claims 19 and 25, the loader of Winter is attached to the tailgate module.

10. Claims 17, 20, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanzig et al in view of Schaffler and Winter, as applied to claims 15 and 21 above, and further in view of Dempster et al.

To have mounted the loader on a hopper or body module would have been obvious for the same reason set forth in paragraph 8 above.

11. Applicant's arguments with respect to claims 9-26 have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Keenan
Primary Examiner
Art Unit 3652

jwk

4/22/04